

CRAIG BERNIER

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

JUAN LOZADA-LEONI,	)	
	)	
Plaintiff,	)	
	)	
VS.	)	Case No.
	)	4:20-cv-00068-RWS-CMC
	)	
MONEYGRAM INTERNATIONAL,	)	
INC. and MONEYGRAM PAYMENT	)	
SYSTEMS, INC.,	)	
	)	
Defendants.	)	

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VOLUME 1  
ORAL DEPOSITION OF  
CRAIG BERNIER  
JUNE 26, 2020  
(REPORTED REMOTELY VIA ZOOM)  
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ORAL DEPOSITION OF CRAIG BERNIER, produced as a witness at the instance of the Plaintiff, and duly sworn, was taken in the above-styled and numbered cause on the 26th day of June, 2020, at 9:33 a.m. to 4:37 p.m., before Laurie Purdy, CSR, in and for the State of Texas, reported remotely by machine shorthand, with the witness located in The Colony, State of Texas, pursuant to the Federal Rules of Civil Procedure, the Twelfth Emergency Order Regarding the COVID-19 State of Disaster, and the provisions stated on the record or attached hereto.

LAURIE PURDY REPORTING SERVICE, INC.

CRAIG BERNIER

1 CRAIG BERNIER,  
2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 BY MS. HUTCHISON:

5 Q. Mr. Bernier, would you state your full  
6 name, please?

7 A. Sure. It's Craig Jacob Bernier.

8 Q. And you are currently employed by  
9 MoneyGram?

10 A. MPSI, yes. MoneyGram Payments, (sic) Inc.,  
11 MPSI.

12 Q. Okay.

13 A. Yes.

14 Q. And what position do you hold?

15 A. I'm the head of AML CFT --

16 Q. So --

17 A. -- head of compliance.

18 Q. -- MoneyGram is the corporation of  
19 acronyms, I have learned. So I'm trying to learn all  
20 of it. AML I know is anti-money laundering, right?

21 A. Yes. Counter financing of terrorism.

22 Q. Counter financing of terrorism?

23 A. Yes.

24 Q. So counter financing of terrorism is a  
25 department of its own within MoneyGram?

CRAIG BERNIER

1 A. It's part of our -- our compliance  
2 strategy, our bigger compliance department, yes.  
3 It's -- it has multiple layers. Counter financing of  
4 terrorism is -- really touches multiple pieces of the  
5 company, so various different controls are utilized  
6 to counter the financing of terrorism, so on a global  
7 scale I kind of head up the efforts for that.

8 Q. Okay. And so you have oversight of a team  
9 of compliance people who investigate fraud, money  
10 laundering, and terrorist activities?

11 A. Yes, that's correct. Suspicious activities  
12 of consumers.

13 Q. And you have a background in intelligence,  
14 don't you?

15 A. Yes. I was former military intelligence.

16 Q. So you worked for the government?

17 A. I did.

18 Q. How long did you work for the government?

19 A. I was in the US Army from June of 2008 in  
20 active duty, in active reserve status until June of  
21 2015. And then from June of 2015 until June of 2017,  
22 I was in inactive status.

23 Q. How long have you been the head of  
24 anti-money laundering, counter financing of  
25 terrorism?

CRAIG BERNIER

1 A. This -- that particular title since July of  
2 2019.

3 Q. So what did you do before July of 2019?

4 A. For MoneyGram?

5 Q. Yes, sir.

6 A. So prior to being head of AML CFT, I was

7 the head of the Financial Intelligence Unit for

8 MoneyGram, which is the vast majority still of my

9 current work. So and that's -- and that was that.

10 And then prior to head of FIU, I was manager within

11 the Financial Intelligence Unit, and prior to that I

12 was an analyst within the Financial Intelligence

13 Unit. Excuse me, correction. I was a supervisor,

14 and then prior to that I was an analyst.

15 Q. So how long have you worked for MoneyGram

16 altogether?

17 A. I started working for MoneyGram in

18 December -- sorry -- November of 2013.

19 Q. So is the AML CFT department, does that  
20 encompass FIU?

21 A. Yes, it does.

22 Q. And you are, I guess, ACAMS certified?

23 A. Yes, I am.

24 Q. And that's the -- another acronym, the  
25 Association of Certified Anti-Money Laundering

CRAIG BERNIER

1 into the financial industry"?

2 A. Visibility into other avenues of compliance  
3 within the financial industry. So, for example, when  
4 you work at an MSB, which handles person-to-person  
5 wire transfer which is different from maybe some of  
6 the compliance scenarios that would occur at a bank  
7 with a (audio cuts out), so this gives some exposure  
8 to how other companies may address issues or forms  
9 where they're giving trainings or briefings, et  
10 cetera.

11 Q. And MSB being a money services business?

12 A. Yes.

13 Q. And both the MSBs, the money services  
14 business, is like MoneyGram -- MoneyGram is an MSB,  
15 right?

16 A. Correct. MoneyGram is in money services.

17 Q. And so both MSBs and banking institutions  
18 and other institutions like that are regulated by the  
19 federal government, right?

20 A. Yes.

21 Q. And that's part of what you learn about  
22 when you get ACAMS certified, is what regulations  
23 govern those industries, right?

24 A. Correct.

25 Q. You learn about the Banking Services Act --

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1 or Secrecy Act? I want to call it "Services Act,"  
2 but it's another -- it's the BSA, which is the  
3 Banking Secrecy Act, right?

4 A. Correct.

5 Q. And the BSA, the Business Secrecy Act,  
6 governs both banks and money service businesses,  
7 right?

8 MR. EISENSTAT: Objection, form.

9 A. So it governs financial --

10 THE WITNESS: Oh, I'm sorry. Go  
11 ahead.

12 MR. EISENSTAT: That's all right. I  
13 just made an objection. You can answer.

14 A. Correct. So the BSA will govern financial  
15 institutions that fall under the definition of how  
16 the BSA defines it, so I wouldn't be able to speak to  
17 specifically which exact institutions that applies  
18 to. It depends on how they're classified.

19 Q. (By Ms. Hutchison) I guess my point,  
20 really, is that it covers MoneyGram.

21 A. Correct, yeah, as defined as a financial  
22 institution.

23 Q. Right. So the Banking Secrecy Act -- so  
24 MoneyGram is required, to your understanding and what  
25 you've learned to become ACAMS certified, to comply

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1 FinCEN.

2 Q. Right. And you are -- you're also required  
3 to comply with the Deferred Prosecution Agreement and  
4 the Federal Trade Commission's injunction, aren't  
5 you?

6 A. Yes, that is correct.

7 Q. And so in order to do that, you have to  
8 have an understanding of what's in them, don't you?

9 A. I do need to have an understanding of what  
10 is in there, and then I can also rely on our internal  
11 legal counsel for interpretations when things may not  
12 be clear in those -- in those particular  
13 requirements.

14 Q. Sure. And if you have a question, you can  
15 certainly go to legal. But separate and apart from  
16 that, you are required to have an understanding of  
17 the concepts and the issues and the problems and the  
18 solutions that are contained within those documents,  
19 right?

20 MR. EISENSTAT: Objection, form.

21 A. Yes. It is very important -- it is  
22 important for me to have an understanding of the  
23 requirements to perform my job functions, yes.

24 Q. (By Ms. Hutchison) And you have to even  
25 sign something saying that you had received a copy

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1 and read the federal injunction, didn't you?

2 A. I do recall having to sign an

3 acknowledgment that I have received those -- that,

4 yes.

5 Q. And what was your understanding of why you

6 had to do that?

7 A. I do not understand why I had to sign

8 that. I believe it was a requirement within the --

9 within the order itself, if I recall.

10 Q. You don't know why?

11 A. Well, I just said I believe it was a  
12 requirement within the order itself, but I --

13 Q. Right. But you don't know why that  
14 requirement was in the order?

15 MR. EISENSTAT: Objection, form.

16 A. I'm not sure why they put that requirement  
17 in the order, ma'am, no.

18 Q. (By Ms. Hutchison) Did you ask anybody?

19 A. I don't recall asking anybody why that  
20 requirement was in the order.

21 Q. Did you know that the requirement in the  
22 injunction order stated that it was -- that it had to  
23 be given to every single employee and agent of  
24 MoneyGram?

25 MR. EISENSTAT: Objection, form.

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CRAIG BERNIER

1 MR. EISENSTAT: Objection, form.

2 A. So, again, I don't know why someone else  
3 decided to put that in there. I can say that from my  
4 personal view, it would be in there to -- so that  
5 employees are aware that it exists and the  
6 requirements that are held within it.

7 Q. (By Ms. Hutchison) How many employees do  
8 you supervise?

9 A. I supervise -- directly I have four people  
10 reporting directly to me, and then the entire  
11 organization underneath it is currently 200 and about  
12 50.

13 Q. So you --

14 A. During the -- go ahead.

15 Q. No, I didn't want to cut you off. I  
16 thought you were done.

17 A. That's in -- that's in my current role.

18 Q. Okay. So you supervise directly and  
19 indirectly 250 employees, and you don't know why  
20 they're supposed to get copies of this order?

21 MR. EISENSTAT: Objection, form.

22 A. I think I -- I think I answered that I  
23 understand from my personal belief that they need to  
24 have a good understanding of what the requirements in  
25 the order is and understand what the order -- that

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CRAIG BERNIER

1 MR. EISENSTAT: Objection, form.

2 A. I think that's an opinion. I think every  
3 financial institution could be susceptible to  
4 criminal activity.

5 Q. (By Ms. Hutchison) Okay. So you don't  
6 have the opinion that -- that money services  
7 businesses are particularly susceptible to money  
8 laundering and terrorist financing?

9 A. I have the opinion that all financial  
10 institutions need to have the appropriate controls to  
11 find and mitigate and report suspicious activity  
12 within their company. I don't think that I can  
13 personally say that one particular portion of the  
14 financial industry is more susceptible than the  
15 other.

16 Q. Well, you will agree that, obviously, you  
17 can't catch the criminals, the terrorists, and the  
18 drug dealers if you don't watch out for them or  
19 monitor for them, right?

20 A. No, I would not agree with that. I think  
21 law enforcement can capture criminals. They don't  
22 always need information from financial institutions.  
23 If you're speaking in general, criminals are caught  
24 every day without --

25 Q. I'm not speaking in general. I'm speaking

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CRAIG BERNIER

1 about MoneyGram. Isn't your job to try to prevent  
2 criminal activity?

3 A. My job is to monitor and identify  
4 potentially suspicious activity within our systems  
5 and then report it through -- through a SARs filing  
6 to the regulatory authorities, but it's not  
7 necessarily to define criminal activity within our  
8 system.

9 Q. Potentially suspicious for criminal  
10 activity, right? I mean, you're not going to --  
11 you're not going to do a report on being suspicious  
12 of somebody for something that's not a crime, are  
13 you?

14 MR. EISENSTAT: Objection, form.

15 A. So MoneyGram and me or anybody, we're not  
16 judges and juries, so I cannot -- the requirements  
17 are to find -- the requirements are to find  
18 suspicious activity. So I can't tell you what crime  
19 may be specifically occurring when you see suspicious  
20 patterns in money transfers.

21 Q. (By Ms. Hutchison) Isn't the whole point  
22 of looking for suspicious patterns --

23 MR. EISENSTAT: I think you  
24 interrupted -- I think you interrupted him, Counsel.

25 MS. HUTCHISON: If he's going to

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1 financing of -- counter financing of terrorism;  
2 however, I can't label that activity as that because  
3 we identify suspicious activity and report it.  
4 That's our -- that's our mandate.

5 Q. I'm not asking you to label it.

6 A. And identifying that suspicious activity is  
7 intended to assist law enforcement and report so  
8 that -- so that, yes, criminal activity can be  
9 prevented.

10 Q. Right. Thank you. And you have to stay on  
11 guard and be vigilant, don't you, in your monitoring  
12 to prevent money laundering and financing of  
13 terrorist activities?

14 A. What do you mean by "staying on guard and  
15 vigilant"? I mean, we have to have the appropriate  
16 program implemented. We have to -- we have to make  
17 sure that we're reviewing our programs and policies  
18 and making sure that we're implementing the right  
19 controls.

20 Q. And using those four pillars of compliance,  
21 right?

22 A. Correct.

23 Q. I mean, the safety of the public, of  
24 MoneyGram's consumers, is one of your primary  
25 responsibilities, isn't it? Isn't that the point of

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1 there was a Deferred Prosecution Agreement that was  
2 entered. And you're familiar with that, right?

3 A. I'm aware that it exists, yes.

4 Q. Okay. And it's, again, the federal  
5 government against MoneyGram International,  
6 Incorporated, right?

7 A. That's what it says, yes.

8 Q. Okay. Well, you have an understanding that  
9 that's -- that that happened and it was the  
10 government against MoneyGram, right?

11 A. Yes.

12 Q. And attached to this Deferred Prosecution  
13 Agreement is what's called a Statement of Facts.  
14 Have you ever read the Statement of Facts that was  
15 attached to the agreement?

16 A. I have read the Statement of Facts, yes.

17 Q. Okay. And that's Attachment A. And so the  
18 Statement of Facts includes a finding that there was  
19 laundering of fraud proceeds using MoneyGram's money  
20 transfer system, correct?

21 MR. EISENSTAT: Objection, form.

22 A. Where does it say that? You're referring  
23 to this page, right?

24 Q. (By Ms. Hutchison) Wait a minute. That's  
25 not what I want.

CRAIG BERNIER

1 A. Could you repeat the question again? Am I  
2 aware -- I know you asked if I'm aware.

3 Q. Well, you know what? Let me back up a  
4 minute. So first of all, there was a finding that  
5 from 2004 to 2009 the reported fraud from MoneyGram  
6 agents was over \$75 million in losses to the victims,  
7 right?

8 MR. EISENSTAT: Objection, form.

9 A. Yes, that's what that says. That's what  
10 the statement says right here that you have in front  
11 of me, yes.

12 Q. (By Ms. Hutchison) Okay. And do you have  
13 an understanding what the government meant by "losses  
14 to victims"?

15 MR. EISENSTAT: Objection, form.

16 A. Again, this particular document was before  
17 my time, and so, you know, I can't speculate what  
18 they actually want it to mean. I can see what the  
19 document says in the order. I can see specifically  
20 in this statement what it says, but I don't -- I  
21 mean, how do you want me to interpret that? I  
22 don't --

23 Q. (By Ms. Hutchison) I want you to -- let me  
24 ask you this: As a MoneyGram manager -- you're a  
25 senior manager, aren't you?

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CRAIG BERNIER

1 A. Yes. Yes.

2 Q. As a senior MoneyGram manager, do you have  
3 any responsibility for complying with this agreement?

4 A. Yes, I do.

5 Q. Okay. And in order to comply with the  
6 agreement, you have to understand it, don't you?

7 MR. EISENSTAT: Objection, form.

8 A. I would say I have to understand it to do  
9 the sections that apply to my job functions, yes.

10 Q. (By Ms. Hutchison) Okay. So you only have  
11 to understand certain parts of it, not all of it?

12 MR. EISENSTAT: Objection, form.

13 A. Yeah, I don't know how to answer that,  
14 because I mentioned earlier, obviously, I'm not an  
15 attorney. This is a legal document, so you're asking  
16 if I need to understand this document, and I think  
17 there are levels of understanding. So when you're  
18 asking that question -- I've never been in a  
19 deposition before, so I don't know how this is  
20 supposed to go. So just to be completely  
21 transparent, if you're asking me do I understand the  
22 document, I can answer that I have a general  
23 understanding of it. I don't know that I can say I  
24 have a legal understanding of it because I'm not a  
25 lawyer. So I want -- when I'm answering your

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CRAIG BERNIER

1 can be improved and continue those -- those  
2 enhancements and improvements over time. I don't  
3 think that -- compliance never stops. So I don't  
4 think improving upon our controls and our systems  
5 ever -- ever slows down or stops.

6 Q. I'm asking you specifically about  
7 MoneyGram's agreement with the federal government.  
8 You understand that you are bound by this agreement?  
9 You, in your role as the head of anti-money  
10 laundering and counter financing of terrorism, are  
11 bound by this agreement?

12 A. I understand the company is bound by it. I  
13 work for the company. I've signed that I  
14 acknowledged it, and, yes, my job is to make some of  
15 the issues that were identified in the Deferred  
16 Prosecution Agreement better and not have the same  
17 challenges that the company was fined for in the  
18 past.

19 Q. Okay. So with that in mind -- I mean,  
20 obviously, that means you've read the Deferred  
21 Prosecution Agreement, right?

22 A. I have read the Deferred Prosecution  
23 Agreement, yes.

24 Q. Was there anything that you recall not  
25 understanding, saying, I don't get this; I don't know



CRAIG BERNIER

1 MR. EISENSTAT: Yeah, there you go.

2 A. That helps.

3 Q. (By Ms. Hutchison) Okay.

4 A. So that -- I'm aware that, yes, this says  
5 that we need to have policies and procedures that  
6 govern how we terminate agents.

7 Q. Okay.

8 A. Yes.

9 Q. And it goes through -- I'm not going to go  
10 through the whole laundry list that the government  
11 has on here, but just generally speaking, you know,  
12 it includes problems with SARs, right, Suspicious  
13 Activity Reports?

14 A. I see Line B discusses SARs, yes.

15 Q. And C discusses SARs?

16 A. Yes, I see C mentions SARs as well.

17 Q. Okay. And another problem that it lists  
18 under D -- and I'll blow that up -- it says,  
19 "MoneyGram failed to sufficiently resource and staff  
20 its AML program," right?

21 A. That's what it says, yes.

22 Q. Okay. And AML is anti-money laundering,  
23 right?

24 A. Correct.

25 Q. And you're over anti-money laundering,

CRAIG BERNIER

1 right?

2 A. As of July of 2019, yes.

3 Q. Okay. Who was over anti-money laundering  
4 before you?

5 A. Directly before me there was an individual,  
6 his name was Rob Stapleton.

7 Q. If you look at -- there's a part in here  
8 about due diligence in signing up agents. It's G.  
9 Here it is. So it says that "MoneyGram failed to  
10 conduct adequate due diligence on prospective  
11 MoneyGram agents and signed up agents without  
12 visiting the locations," et cetera, right?

13 A. That's what it says, yes.

14 Q. Okay. And so is there a due diligence  
15 requirement that you're aware of with respect to  
16 verifying who the agents are and whether they're, I  
17 guess, legitimate?

18 MR. EISENSTAT: Objection, form.

19 A. MoneyGram has a due diligence process for  
20 onboarding agents, yes.

21 Q. (By Ms. Hutchison) Okay. And is that  
22 important for -- also for the counter financing of  
23 terrorism aspect of your job, to make sure that the  
24 agents that are being signed up are not run by any  
25 terrorists organizations?

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CRAIG BERNIER

1 influencing compliance?

2 MR. EISENSTAT: Objection, form.

3 A. Well, I -- so, again, first deposition. I  
4 don't know what you mean by "improper." What I do  
5 know is that what you have in front of me, what the  
6 company was -- what this statement says about sales  
7 influencing compliance. But in my world, I have not  
8 personally experienced someone trying to  
9 inappropriately influence or affect anything from a  
10 sales side in my world.

11 Q. (By Ms. Hutchison) And you're not aware of  
12 that occurring at MoneyGram?

13 A. I'm aware of this in -- I'm aware of this  
14 in the DPA. And I would say in a general sense  
15 that -- I'm not aware of a compliance action not  
16 being taken because of sales. I can't recall any  
17 compliance action being missed or not taken because  
18 of something that sales did or said.

19 Q. As a senior manager of MoneyGram, did you  
20 get copies of the Monitor Reports?

21 A. I've received copies of the Monitor Reports  
22 for the last couple of years. I may not have always  
23 had visibility into all of the Monitor Reports based  
24 on the level that I had at the company at the time --  
25 depending on what time frame you're talking about.

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CRAIG BERNIER

1 Q. What about in 2016? Would you have gotten  
2 a copy of the Monitor report in 2016?

3 A. I do not recall getting a full copy of the  
4 Monitor report in 2016; although, I do believe that I  
5 got sections that were pertaining to my area.

6 Q. And what was your role in 2016?

7 A. In the -- from January until July -- mid  
8 July of 2016, I was a manager in the Financial  
9 Intelligence Unit. And then in July of 2016 after  
10 the director at the time left, I was named director  
11 of the FIU, which is now called the head of the FIU.

12 THE REPORTER: I'm sorry. Can you say  
13 that one more time? Head of what?

14 THE WITNESS: Head of the Financial  
15 Intelligence Unit.

16 Q. (By Ms. Hutchison) And you were referred  
17 to --

18 A. The position was -- the position was called  
19 director at the time, director of --

20 Q. And you were --

21 A. -- financial. I'm sorry.

22 Q. I was just trying to clarify for the court  
23 reporter that you referred to it as the FIU.

24 A. Yes.

25 Q. I just don't think she heard the "FIU."

CRAIG BERNIER

1 Q. (By Ms. Hutchison) Mr. Bernier, my  
2 question is specific. I'm not asking you if you've  
3 read Paragraph 2. I'm asking you -- the question is,  
4 do you have an understanding based upon your reading  
5 of this document and the fact that you were required  
6 to read, understand, and acknowledge it, that  
7 MoneyGram has admitted that it has engaged in fraud?  
8 And that's a yes or no question.

9 MR. EISENSTAT: You can answer this  
10 question for the last time.

11 Q. (By Ms. Hutchison) It's yes or no.

12 A. The document speaks for itself, and I have  
13 already admitted that I have read and understood the  
14 document.

15 Q. And you read and understood all the facts  
16 that were attached that describe in great detail all  
17 of the fraud that occurred, right?

18 A. I would not state that I understand every  
19 detail of the legal verbiage used in the -- in the  
20 specific -- in the DPA. But as I mentioned earlier,  
21 that I do have access to our internal legal counsel,  
22 so if I had a question or if something was unclear I  
23 could ask them.

24 Q. And I'm not asking you about the legal  
25 verbiage. I'm asking you did you read the statement

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1 of facts that talk about the factual basis for the  
2 fraud findings?

3 A. Which specific facts are you referring to  
4 and I can let you know if I'm aware of them? If  
5 you'd like to walk through every fact in the entire  
6 document, I'm happy to say what I recall and what I  
7 don't. If that's what you would like to do, I will  
8 do that.

9 Q. I want to know if you read the factual  
10 statement that describes all the fraudulent  
11 activities.

12 A. I believe that I did say that I have read  
13 the Deferred Prosecution Agreement, yes.

14 Q. Okay.

15 A. If you're asking if I recall every  
16 statement in the entirety of the document, I do not.

17 Q. What's your understanding of why MoneyGram  
18 required you to read the federal injunction and the  
19 prosecution agreement from the Department of Justice?

20 A. As I recall, the company was required to  
21 have everyone read and acknowledge the Deferred  
22 Prosecution Agreement.

23 Q. And what's your understanding of why the  
24 government wanted MoneyGram to have its senior  
25 management and its employees and its agents read

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1 MS. HUTCHISON: -- whole suit is  
2 about.

3 MR. EISENSTAT: Susan, I've made my  
4 position known to you, so I suggest --

5 MS. HUTCHISON: It's very wrong.

6 MR. EISENSTAT: -- that you ask  
7 another question.

8 MS. HUTCHISON: I'll show you why it's  
9 relevant.

10 MR. EISENSTAT: Great. That would be  
11 nice to see.

12 MS. HUTCHISON: I will absolutely do  
13 that. But I just want to make sure the record is  
14 clear that Mr. Bernier is testifying that as a senior  
15 management he has no clue as to why he was supposed  
16 to read that document.

17 Q. (By Ms. Hutchison) Is that accurate?

18 A. I am not testifying to that, no. That is  
19 not accurate.

20 Q. So what's the clue -- what's your -- what's  
21 your understanding, your opinion or belief as a  
22 senior manager as to why you should read those  
23 documents?

24 A. Now, that's a better question because I can  
25 give you my opinion. My opinion on why we should be

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1 reading those documents is because it's important to  
2 understand the history of what the company has been  
3 through so that we can understand where the company  
4 has made mistakes in the past so that we can create a  
5 better environment now and in the future to combat  
6 fraud and anti-money laundering initiatives. So I  
7 think it's important to know history of the company  
8 so that we know where we need to aim to be in the  
9 future.

10 Q. And the Deferred Prosecution Agreement is  
11 still in effect, right?

12 A. There's an extension to the Deferred  
13 Prosecution Agreement, yes.

14 Q. It's still in effect?

15 A. Yes.

16 Q. Okay. And so it applies to MoneyGram today  
17 as we sit here, right?

18 A. Yes.

19 Q. Okay. And as a matter of fact, if you look  
20 at the extension that's still in effect today --  
21 we'll look at Page 11. It says, "As a result of  
22 MoneyGram's conduct including why" --

23 MR. EISENSTAT: Susan --

24 MS. HUTCHISON: It's not on there?

25 MR. EISENSTAT: No, not yet.



CRAIG BERNIER

1 Q. It says that in 2018 -- November 2018,  
2 right?

3 A. Page 15 says November 2018 signed by the  
4 CEO, yes.

5 Q. Right. "In 2018 the company had to forfeit  
6 \$125 million," right?

7 A. I believe that's when the -- I see the  
8 sentence, so, yes, I see what the document says.

9 Q. All right.

10 MR. EISENSTAT: But just so you're  
11 clear, it does say 2015, so let's not be misleading  
12 with the record.

13 MS. HUTCHISON: It says that -- it  
14 says that "conduct related to the implementation of  
15 an ineffective fraud interdiction system in 2015."

16 MR. EISENSTAT: In 2015.

17 MS. HUTCHISON: Correct. However, the  
18 DPA is continuing. It's still in effect. It's 2018  
19 when they had to pay the \$125 million.

20 MR. EISENSTAT: I'm not arguing with  
21 you, Counsel. I'm just wanting to make sure that  
22 you're not trying to make an incorrect record here by  
23 being quick with dates that aren't what the document  
24 says.

25 Q. (By Ms. Hutchison) All I'm saying is the

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1 document is in effect five years after you got  
2 there. For that whole five-year period of time, this  
3 Prosecution Agreement was in effect, right?

4 A. Correct. The company has been in a DPA  
5 since I started working for the company.

6 Q. The entire period of time you've been  
7 employed, the company has been in a DPA, right?

8 A. That is correct.

9 Q. And part of the reason that prosecution  
10 against the company is deferred is to try to get  
11 MoneyGram to fix the problems that are listed in the  
12 DPA, right?

13 A. Could you say that one more time?

14 Q. Yes. The agreement is, We, the government,  
15 will defer prosecuting criminally you, MoneyGram, and  
16 your officers and managers if you'll fix the  
17 problems, right?

18 MR. EISENSTAT: Objection, form.

19 A. I'm trying to see where it says that in the  
20 document, "we, the government."

21 Q. (By Ms. Hutchison) I'm paraphrasing it,  
22 sir. But is that your understanding of it or not?

23 A. Again, if you ask me a question, I will  
24 answer it exactly to what's in the document, but I  
25 don't think that I can presume based on a paraphrase

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1 what the document is supposed to imply. I can only  
2 go by exactly what it says.

3 Q. Well, I'm asking you for what you  
4 understand it says. You have to have some kind of  
5 understanding of what the consequences are of this  
6 document, don't you?

7 A. Are you asking me if I have a personal  
8 opinion about the document, or are you asking me how  
9 deep I understand it from a legal perspective?  
10 Because I've --

11 Q. I'm not --

12 A. -- already mentioned that I cannot  
13 interpret the document from a legal perspective. I  
14 can only interpret the document --

15 Q. How many times, Mr. Bernier, do I have to  
16 tell you I'm not asking you for a legal opinion?

17 A. I understand, but you asked me how I  
18 understand it, so --

19 Q. No.

20 A. -- there's level of understanding for a  
21 document like this.

22 Q. I'm asking you as the head of the entire  
23 anti-money laundering, counter financing of terrorism  
24 supervising 250 people, don't you have to have an  
25 understanding of the consequences of this agreement

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1 that is still in effect?

2 A. I -- yes. I understand that there are --

3 MR. EISENSTAT: Objection, form.

4 A. -- consequences for not adhering to the  
5 Deferred Prosecution Agreement.

6 Q. (By Ms. Hutchison) And what are the  
7 consequences for not adhering to this agreement that  
8 remains in effect?

9 MR. EISENSTAT: Objection, form.

10 A. Are the consequences specifically laid out  
11 in the document? Because if they're not, I don't  
12 know precisely what consequences may incur based on  
13 which part of the document are not adhered to. So  
14 it's difficult for me to answer that. I do know that  
15 there are consequences for not adhering to  
16 compliance. I do know that we need to resolve the  
17 issues that were listed within the DPA, but I don't  
18 know specifically exactly what's going to happen to  
19 the company if we do A, B, and C right and then D  
20 wrong, for example.

21 Q. (By Ms. Hutchison) Okay. So that's not  
22 something that has been addressed with you as to what  
23 the consequences would be for any particular action  
24 with respect to the DTPA -- I mean, the DPA?

25 MR. EISENSTAT: Objection, form.

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1 Q. (By Ms. Hutchison) Sure. I'm asking you  
2 if anyone with MoneyGram has ever addressed with you  
3 who could potentially suffer the consequences if the  
4 DPA was violated?

5 A. So we do have annual training within the  
6 company that does articulate the consequences of  
7 noncompliance. As I recall, jail is mentioned for  
8 noncompliance as one of the measures that -- one of  
9 the consequences that could happen, along with  
10 fines. I don't recall if it specifically says a  
11 position or a person that would be subject to that.  
12 In my mind, compliance is everyone's responsibility,  
13 so I think everyone should take that training with  
14 all seriousness, that, you know, anybody can be  
15 responsible for wrongdoing within the company and  
16 should be and is.

17 Beyond that, I'm aware that the prior  
18 chief compliance officer for MoneyGram before I  
19 worked for MoneyGram was personally fined, so I know  
20 that has happened. So in terms of exactly who, I  
21 can't say that I recall any specific person saying,  
22 This person will go to jail, but I do recall that it  
23 is part of our training that jail is consequence --  
24 could be a consequence for noncompliance.

25 MS. HUTCHISON: Okay. We can take a

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1 A. Yeah.

2 Q. -- right?

3 A. Okay. Well, there you go. Yeah, it's the  
4 e-mail. I see it.

5 Q. Okay. And this e-mail is where Mr. Lozada  
6 is talking to somebody on the monitor team, right?  
7 Do you know who Phil Underwood is?

8 A. Yes. I know Phil Underwood from  
9 FreshFields.

10 Q. Okay. And that's the monitor team, right?

11 A. That is the prior monitor team, yes, in  
12 2017.

13 Q. Okay. Has MoneyGram terminated its monitor  
14 relationship with FreshFields?

15 A. I don't know the appropriate terminology.  
16 I am -- we do have a different monitor currently  
17 that, I believe, was selected by the Department of  
18 Justice.

19 Q. Okay. Do you know why the Department of  
20 Justice selected a different monitor?

21 A. I do not have any personal knowledge why  
22 the Department of Justice changed monitors.

23 Q. Okay. In any event, so Mr. Lozada is  
24 saying, "Phil, another message for your Supervalu  
25 folder. It illustrates the process that compliance

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1 asked you to show it to him so that he can look at  
2 it. If you don't want to do that, then don't do it.

3 MS. HUTCHISON: Fine. I just told you  
4 my exhibits rearranged themselves. I'm looking for  
5 it. But it's hard for me to believe that the head of  
6 the anti-money laundering department doesn't know  
7 whether the DPA requires him to discipline an agent.

8 MR. EISENSTAT: What you believe is  
9 not relevant. Okay? Whether you believe it or not  
10 believe, doesn't matter. He's asked to see it. And  
11 you're either able to show it to him right now or  
12 not. If you have a computer glitch, that's fine. I  
13 understand.

14 MS. HUTCHISON: Just, Gary, let me ask  
15 my questions, please.

16 Q. (By Ms. Hutchison) Mr. Bernier, you  
17 don't -- I'm asking you as the head of the  
18 department. Do you know one way or the other whether  
19 there is an obligation on the part of MoneyGram to  
20 discipline agents who won't remediate under those --  
21 under the requirements of the federal government?

22 MR. EISENSTAT: Objection, form.

23 A. I'm not aware of what the specific verbiage  
24 that the DPA says in terms of the requirement, but  
25 our process is that we do execute, does have a

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1 mechanism for us to review, investigate, and take the  
2 appropriate disciplinary actions when required with  
3 agents. So it's not as if I'm not saying that we  
4 don't take disciplinary actions. I am agreeing that  
5 disciplinary actions occur and that we have a process  
6 to remediate disciplinary actions or take actions  
7 with agents when they're in noncompliance or if their  
8 compliance is not satisfactory. What I'm not able to  
9 answer to you is specifically exactly what the DPA is  
10 saying in how you're phrasing your question.

11 MS. HUTCHISON: I object as  
12 nonresponsive.

13 Q. (By Ms. Hutchison) I'm just asking you  
14 broadly, as broadly as I can possibly think of  
15 without using any specific verbiage or specific  
16 language or specific terminology. Just if the DPA  
17 puts an obligation on MoneyGram and its managers to  
18 discipline noncompliant agents.

19 MR. EISENSTAT: Susan, we've been  
20 through this.

21 Q. (By Ms. Hutchison) If you don't know, you  
22 don't know.

23 MR. EISENSTAT: We've been through  
24 this multiple times, and he's answered it every  
25 single time. You just don't like his answer. You're



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1 you're probably wanting to show me.

2 Q. So you don't get -- when you get training  
3 with respect to the effects of the DPA and the  
4 injunction, they don't train you what MoneyGram's  
5 continuing obligations are?

6 A. I don't recall every element specifically  
7 of the training in terms of the terminology and how  
8 they refer to every piece of that.

9 Q. My question was, do you get training on  
10 what MoneyGram's obligations are under the DPA and  
11 the injunction?

12 A. The company does have annual training, yes.

13 Q. Okay. And does that training include what  
14 MoneyGram's obligations are continuing under both of  
15 those agreements?

16 A. As I recall, there is some training on the  
17 continued obligations under the FTC order, yes.

18 Q. Does any of that training address a failure  
19 to suspend an agent under certain noncompliant  
20 conditions?

21 A. I don't recall specifically if the training  
22 says that or not, but I do recall that, as it says  
23 there, it talks about suspending agents at  
24 MoneyGram's locations on Page 19.

25 Q. Okay.

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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

JUAN LOZADA-LEONI, )  
 )  
Plaintiff, )  
 )  
VS. ) Case No.  
 ) 4:20-cv-00068-RWS-CMC  
 )  
MONEYGRAM INTERNATIONAL, )  
INC. and MONEYGRAM PAYMENT )  
SYSTEMS, INC., )  
 )  
Defendants. )

REPORTER'S CERTIFICATION

ORAL DEPOSITION OF

CRAIG BERNIER

JUNE 26, 2020

VOLUME 1  
(REPORTED REMOTELY VIA ZOOM)

I, Laurie Purdy, CSR, in and for the State of  
Texas, hereby certify to the following:

That the witness, CRAIG BERNIER, was duly sworn  
by the officer and that the transcript of the oral  
deposition is a true record of the testimony given by  
the witness;

That the deposition transcript was submitted on  
August 5, 2020, to Mr. Gary Eisenstat, Attorney for  
the Witness, for the review and signature by the  
witness, to be returned to the reporter within 30  
days;

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1 That the amount of time used by each party at  
2 the deposition is as follows:

3 Ms. Hutchison: 5:43

4 Mr. Eisenstat: 00:00

5 That pursuant to information given to the  
6 deposition officer at the time said testimony was  
7 taken, the following includes counsel for all parties  
8 of record:

9 FOR THE PLAINTIFF APPEARING REMOTELY:

10 MS. SUSAN E. HUTCHISON  
11 Hutchison & Stoy, PLLC  
12 505 Pecan Street, Suite 101  
13 Fort Worth, Texas 76102  
14 T 817-820-0100  
15 F 817-820-0111  
16 hutch@hsjustice.com

14 FOR THE DEFENDANT APPEARING REMOTELY:

15 MR. GARY EISENSTAT  
16 Ogletree, Deakins  
17 8117 Preston Road, Suite 500  
18 Dallas, Texas 75225  
19 T 214-987-3800  
20 gary.eisenstat@ogletree.com

19 FOR THE DEFENDANT APPEARING REMOTELY:

20 MR. J. RANDALL ROESER  
21 Haltom & Doan  
22 6500 Summerhill Road, Suite 100  
23 Texarkana, Texas 75503  
24 T 903-255-1000  
25 rroeser@haltomdoan.com

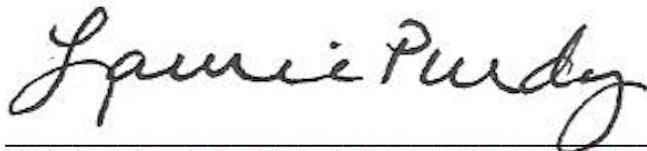
24 That \$1,441.50 is the deposition officer's  
25 charges to the Plaintiff for preparing the original

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1 deposition transcript and any copies of exhibits;

2 I further certify that I am neither counsel for,  
3 related to, nor employed by any of the parties or  
4 attorneys in the action in which proceeding was  
5 taken, and further that I am not financially or  
6 otherwise interested in the outcome of the action.

7  
8 Certified to by me this 2nd day of August,  
9 2020.

10  
11  
12 

13 LAURIE PURDY, CSR 5933  
14 Certification Expires: 1-31-2021  
15 Laurie Purdy Reporting Service, Inc.  
16 2212 Wood Cliff Court  
17 Arlington, Texas 76012  
18 T 817-988-4348  
19 Firm ID Number: 582  
20  
21  
22  
23  
24  
25

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